

§ 1308.3

18 CFR Ch. XIII (4-1-09 Edition)

§ 1308.3 Exclusions.

(a) This part does not apply to any TVA contract which does not contain a disputes clause.

(b) Except as otherwise specifically provided, this part does not apply to any TVA contract entered into prior to March 1, 1979, or to any dispute relating to such a contract.

§ 1308.4 Coverage of certain excluded Contractors.

(a) A Contractor whose contract is excluded from this part under § 1308.3(b) may elect to proceed under this part and the Act with respect to any dispute pending before a Contracting Officer on March 1, 1979, or initiated thereafter. If the disputes clause in the contract is not an “all disputes” clause (*see Patton Wrecking & Dem. Co. v. Tennessee Valley Authority*, 465 F.2d 1073 (5th Cir. 1972)), a Contractor’s election under this section shall cause the provisions of the first two sentences of section 6(a) of the Act to apply to the contract, and such an election shall be irrevocable.

(b) A Contractor makes an election under paragraph (a) of this section by giving written notice to the Contracting Officer stating that the Contractor elects to proceed with the dispute under the Act. For disputes pending on March 1, 1979, the notice shall be actually received by the Contracting Officer within 30 days after the Contractor receives the Contracting Officer’s decision. For disputes initiated thereafter, the notice shall be included in the document first requesting a decision by the Contracting Officer.

§ 1308.5 Interest.

TVA shall pay a Contractor interest on the amount found to be due on a claim:

(a) From the date payment is due under the contract or the Contracting Officer receives the claim, whichever is later, until TVA makes payment;

(b) At the rate payable pursuant to section 12 of the Act on the date from which interest runs pursuant to paragraph (a) of this section.

§ 1308.6 Fraudulent claims.

(a) If a Contractor is unable to support any part of a claim and it is determined that such inability is attrib-

utable to the Contractor’s misrepresentation of fact or fraud, the Contractor shall be liable to TVA, as set out in section 5 of the Act, for:

(1) An amount equal to the unsupported part of the claim; plus

(2) All TVA’s costs attributable to reviewing that part of the claim.

(b) The term “misrepresentation of fact” has the meaning given it in section 2(7) of the Act.

(c) Prior to TVA’s filing suit for amounts due under this section, TVA shall provide the Contractor with a copy of any opinion under § 1308.16 or § 1308.37(b), and shall request the Contractor to pay voluntarily the amount TVA asserts is due to it.

(d) A determination by TVA that fraud or misrepresentation of the fact has been committed is not subject to decision under a disputes clause.

(e) The provisions of this section are in addition to whatever penalties or remedies may otherwise be provided by law.

§ 1308.7 Effective date.

Subject to § 1308.3(a), this part applies to any TVA contract having an effective date on or after March 1, 1979.

Subpart B—Contracting Officers

§ 1308.11 Contractor’s request for relief.

Any request for relief which a Contractor believes is due under a contract shall be submitted to the Contracting Officer in writing, in accordance with the terms of the contract, including applicable time limits.

§ 1308.12 Submission and decision of Contractor’s claim.

(a) If Contractor and TVA are unable to resolve Contractor’s request for relief by agreement within a reasonable time, Contractor may submit a claim to the Contracting Officer.

(b) The Contracting Officer shall issue a decision to the Contractor on a submitted claim in conformity with the contract’s disputes clause. Specific findings of fact are not required, but may be made. Such findings are not binding in any subsequent proceeding except as provided in § 1308.15. The decision shall: